



## Registration Decision

<b>Application name</b>	Jirrbal People #4
<b>Name of applicant</b>	Bradley Go-Sam, Sarah Cronin, Tonya Grant, Phyllis Grant, Tasha House, Jeanette Miller, Kurt Noble, Joshua Weare, Vivian Woods
<b>Federal Court of Australia No.</b>	QUD983/2015
<b>NNTT No.</b>	QC2015/014
<b>Date of Decision</b>	25 August 2025
<b>Claim accepted for registration</b>	

I have decided that the claim in the Jirrbal People #4 application satisfies all of the conditions in ss 190B–190C of the *Native Title Act 1993* (Cth).<sup>1</sup> Therefore the claim must be accepted for registration and entered on the Register of Native Title Claims.

Michael Raine

Delegate of the Native Title Registrar pursuant to ss 190–190D of the Act under an instrument of delegation dated 5 February 2024 and made pursuant to s 99 of the Act.

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<sup>1</sup>A section reference is to the *Native Title Act 1993* (Cth) ('Act'), unless otherwise specified.

# Reasons for Decision

## Cases cited

*Burrabungba on behalf of the Wangan and Jagalingou People v Queensland* [2017] FCA 373 ('Burrabungba')

*Butchulla People v State of Queensland* [2006] FCA 1063; (2006) 154 FCR 233 ('Butchulla')

*Fesl v Delegate of the Native Title Registrar* [2008] FCA 1469; (2008) 173 FCR 150 ('Fesl')

*Harrington-Smith on behalf of the Wongatha People v Western Australia (No 9)* [2007] FCA 31; (2007) 238 ALR 1 ('Harrington-Smith')

*Lawson on behalf of the 'Pooncarie' Barkandji (Paakantyi) People v Minister for Land and Water Conservation for the State of New South Wales* [2002] FCA 1517 ('Lawson')

*Noble v Mundraby, Murgha, Harris and Garling* [2005] FCAFC 212 ('Noble')

*Northern Territory of Australia v Doepel* [2003] FCA 1384; (2003) 133 FCR 112 ('Doepel')

*Strickland v Native Title Registrar* [1999] FCA 1530; (1999) 168 ALR 242 ('Strickland')

*Ward v Northern Territory* [2002] FCA 171 ('Ward')

*Weribone on behalf of the Mandandanji People v Queensland* [2013] FCA 255 ('Weribone')

*Western Australia v Strickland* [2000] FCA 652; (2000) 99 FCR 33 ('Strickland FC')

*Wiri People v Native Title Registrar* [2008] FCA 574; (2008) 168 FCR 187 ('Wiri People')

## Background

- [1] This decision relates to an amended native title determination application filed on 3 July 2025 on behalf of the Jirrbal People #4 native title claim group ('Amended Application'). The Jirrbal People #4 native title claim group first lodged a native title determination application on 22 October 2015 ('Original Jirrbal People #4 Application'), covering land and waters of approximately 2800 square kilometres in Queensland. The Original Jirrbal People #4 Application was accepted for registration on the Register of Native Title Claims ('Register') on 9 February 2016 and has been amended twice previously, most recently on 22 May 2024 ('Previous Application'). On 22 July 2024 I decided that the Previous Application must be accepted for registration on the Register ('Previous Registration Decision').
- [2] On 1 July 2025 orders were made under s 66B of the Act to replace the applicant and to grant leave for an amended application to be made. The Amended Application was filed on 3 July 2025 and was provided to the National Native Title Registrar ('Registrar') on 10 July 2025 in accordance with s 64(4) of the Act. This has triggered the Registrar's duty to consider the claim made in the application for registration in accordance with s 190A.<sup>2</sup>

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<sup>2</sup> Section 190A(1).

## Preliminary considerations

### *Registration conditions*

- [3] Sections 190A(1A), (6), (6A) and (6B) set out the decisions available to the Registrar under s 190A. Section 190A(6) provides that the Registrar must accept the claim for registration if it satisfies all of the conditions of s 190B (which the Act refers to as dealing mainly with the merits of the claim) and s 190C (which the Act refers to as dealing with procedural and other matters). Section 190A(6B) provides that the Registrar must not accept the claim for registration if it does not satisfy all of the conditions of ss 190B–190C.
- [4] Section 190A(1A) provides for exemption from the registration test for certain applications amended under s 87A. I am satisfied that s 190A(1A) does not apply to the Amended Application because the granting of leave by the Court to amend the application was not made pursuant to s 87A.
- [5] Section 190A(6A) sets out the conditions under which the Registrar must accept an amended application for registration without testing under ss 190B and 190C. The amendments made in the Amended Application include:
- the replacement of the names of the persons comprising the applicant;
  - amended details of the authorisation of the replacement applicant at Schedule R;
  - updated conditions imposed on the authority of the applicant at Schedule IA;
  - replacement affidavits of the persons comprising the applicant at Attachment R; and
  - updated details of the legal representative of the applicant at Part B.
- [6] In my view, the Amended Application includes amendments which do not fall within s 190(6A).
- [7] I have decided that the claim in the application must be accepted for registration and this document sets out my reasons for that decision.

### *Procedural fairness*

- [8] On 14 July 2025, a Senior Officer wrote to the applicant and the State of Queensland ('State') to advise that I was considering whether ss 190A(1A) or (6A) applied to the Amended Application. No submissions were provided about the whether the Amended Application was subject to ss 190A(1A) or (6A).
- [9] On 23 July 2025 a Senior Officer wrote to the Applicant to advise that I had formed the view that ss 190A(1A) and (6A) did not apply to the Amended Application and requesting that the applicant confirm what material was sought to be relied upon for the purpose of the registration test. On 31 July 2025 the applicant confirmed that it sought to rely on the same material as for the Previous Application (this material is set out at paragraph 9 of the Previous Registration Decision) and provided an additional affidavit of Lucy Toepfer affirmed on 30 May 2025 ('Authorisation Affidavit').

[10] On 1 August 2025, a Senior Officer wrote to the State to provide a copy of the Amended Application, the letter from the applicant of 31 July 2025 and the Authorisation Affidavit. The State was invited to provide any submissions in relation to the registration test by 15 August 2025.

[11] The State did not provide any submissions. This concluded the procedural fairness process.

### *Information considered*

[12] Section 190A(3) sets out the information to which the Registrar must have regard in considering a claim under s 190A and provides that the Registrar ‘may have regard to such other information as he or she considers appropriate’.

[13] In accordance with s 190A(3)(a), I have had regard to the information in the Amended Application and accompanying documents, the material provided by the applicant on 19 June 2024 in relation to the Previous Application and set out at paragraph 9 of the Previous Registration Decision as well as the Authorisation Affidavit.

[14] There is no information before me obtained as a result of any searches conducted by the Registrar of State/Commonwealth interest registers under s 190A(3)(b).<sup>3</sup>

[15] The State has not provided any submissions or information in relation to the application of the registration test that I must have regard to under s 190A(3)(c).<sup>4</sup>

[16] Section 190A(3) provides that I may also have regard to such other information as I consider appropriate. I have also considered it appropriate to have regard to a geospatial assessment and overlap analysis prepared by the Tribunal’s Geospatial Services in relation to the area covered by the Amended Application, dated 30 July 2025 (‘Geospatial Assessment’). Given that the Amended Application is substantially the same as the Previous Application, including all of the factual basis material, I have also had regard to my Previous Registration Decision. I have considered the Amended Application afresh against all of the conditions of the registration test, however in the circumstances and to avoid duplication I have indicated below where I am satisfied that a particular condition is met for the same reasons as set out in my Previous Registration Decision, without setting out those reasons again here. As such, these reasons should be read together with my Previous Registration Decision.

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<sup>3</sup> Section 190A(3)(b).

<sup>4</sup> Section 190A(3)(c).

## Section 190C: conditions about procedural and other matters — conditions met

### Sections 190C(2) and ss 61 and 62: registration conditions about procedural and other matters – condition met

- [17] I have examined the amended application and for the reasons set out below, I am satisfied that it contains all details and other information and is accompanied by affidavits and other documents as required by ss 61 and 62.
- [18] To meet s 190C(2), the Registrar must be satisfied that the application contains all of the prescribed details and other information, and is accompanied by any affidavit or other document, required by ss 61–62. This condition does not require any merit assessment of the material to be undertaken, however it does seek ‘...to ensure that the application contains “all details” required by s 61...’.<sup>5</sup> As such, in my view s 190C(2) requires consideration of whether the Amended Application contains the required material and whether such material is sufficient to enable the Registrar to form an opinion about whether the claim satisfies all of the conditions in ss 190B and 190C.<sup>6</sup>

### *Section 61 – native title applications*

- [19] **Section 61(1)** provides that only persons included in and authorised by the native title claim group may make a native title determination application for the particular native title claimed. As noted above the persons comprising the applicant have been replaced in the Amended Application. Nine persons are named in the Amended Application as comprising the applicant. Schedule A of the Amended Application contains a description of the native title claim group as persons who are the descendants by birth or adoption in accordance with traditional laws and customs from 41 named apical ancestors and who identify as and are recognised by other members of the claim group as Jirrbal People. Each of the persons comprising the applicant have deposed an affidavit for the purposes of s 62 and these are annexed to the Amended Application at Attachment R (‘Applicant Affidavits’). The Applicant Affidavits indicate that each deponent is a member of the native title claim group, a member of the replacement applicant and is authorised to make the application by all the persons in the native title claim group.<sup>7</sup> From the material contained in Schedule A and the Applicant Affidavits, I am satisfied that the Amended Application has been made in accordance with s 61(1).
- [20] **Section 61(2)** provides that the persons authorised to make the native title determination application are jointly the applicant and none of the other members of the native title claim group is the applicant. I consider that there is nothing in the Amended Application or other material I have considered which would suggest otherwise.

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<sup>5</sup> *Doepel* [35].

<sup>6</sup> See also s 190D(3)(b).

<sup>7</sup> Form 1, Attachment R, Affidavits provided for the purpose of s 62 [1]–[3].

- [21] **Section 61(3)** requires an application to state the name and address for service of the applicant. The names of each of the persons comprising the applicant are stated in the Amended Application. The updated address for service for the applicant is set out at Part B and the cover page of the Amended Application. I am satisfied that the Amended Application contains the information required by s 61(3).
- [22] **Section 61(4)** requires a native title determination application authorised by persons in a native title claim group to name or describe the persons in that claim group so that it can be ascertained whether any particular person is one of those persons. I am satisfied that the Amended Application meets this requirement for the same reasons set out at paragraphs 25 to 27 of the Previous Registration Decision and noting that the claim group description at Schedule A has not been amended.
- [23] **Section 61(5)** provides that the application must be filed in the Court in the prescribed form and be accompanied by any prescribed fee. In my view, these are matters for the Court however I note that the Amended Application is made in the prescribed form and was accepted for filing by the Court on 3 July 2025.<sup>8</sup> I further note that the compliance with s 61(5)(c) (that the application contain such information as prescribed) is otherwise tested as part of my consideration of s 190C(2) as a whole.

*Section 62(1), (1A) and (2): information etc. in relation to certain applications;  
claimant applications*

- [24] **Section 62(1)(a)** requires a claimant application to be accompanied by an affidavit sworn by the applicant stating each of the matters mentioned in subsection (1A). Each of the nine persons comprising the applicant has deposed an affidavit that includes statements to the effect that:
- the deponent is a member of the Jirrbal People #4 as described at Schedule A of the Amended Application;
  - the deponent is a member of the replacement applicant that is authorised to replace the applicant in the Previous Application;
  - the deponent and the other members of the replacement applicant are authorised by the claim group to make the application and to deal with matters arising in relation to it;
  - the deponent believes that the native title rights and interests claimed in the Amended Application have not been extinguished in relation to any part of the area covered by the application;
  - the deponent believes that none of the area covered by the Amended Application is also covered by an approved determination of native title;
  - the deponent believes that all of the statements made in the Amended Application are true;

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<sup>8</sup> Notwithstanding that the Amended Application has not been signed at Part C.

- the deponent attended an authorisation meeting on 15 March 2025 convened by the North Queensland Land Council ('NQLC') to authorise a replacement applicant;
- the claim group resolved that there is no traditional decision-making process that must be followed, and a decision-making process was agreed and adopted, involving resolutions being passed by simple majority of those over 18 on a vote by show of hands;
- the claim group resolved to replace the applicant and authorised the deponent and the other members of the replacement applicant;
- conditions were imposed on the replacement applicant, including that the applicant:
  - must act in accordance with the best interest of the claim group, NQLC legal advice, NQLC policies and procedures and the instructions of the claim group;
  - must make decisions by majority where a consensus cannot be reached; and
  - must not, without the explicit authorisation of the claim group at a properly notified and convened meeting, discontinue or withdraw the claim, amend the description of the claim group, enter into certain types of Indigenous land use agreement, change the legal representation of the applicant, approve a consent determination or nominate a corporate entity to hold native title on behalf of the claim group; and
- that these conditions have been satisfied because the applicant has at all times complied with the relevant requirements and not taken any unauthorised action.

[25] I am satisfied that the above statements in the Applicant Affidavits meet the description of each of the statements required by s 62(1A)(a)–(g), noting that as conditions were imposed s 62(1A)(f) is not applicable. As such, the Amended Application is accompanied by the documents required by s 62(1)(a).

[26] I have reviewed the requirements for the information and documents as required under **ss 62(1)(d) and 62(2)(a)–(h)**. The relevant information and documents have not been amended in the Amended Application as from the Previous Application. I am satisfied, for the same reasons set out in paragraphs 31 to 49 of the Previous Registration Decision that the Amended Applications contains the information as required by ss 62(1)(d) and 62(2)(a)–(h).

[27] **Section 62(2)(i)** requires the application to include details of any conditions under s 251BA. Schedule IA of the Amended Application sets out the updated conditions imposed on the replacement applicant under s 251BA. As such, I am satisfied that the Amended Application contains the information required by s 62(2)(i).

### *Conclusion on s 190C(2)*

[28] As set out above, I am satisfied that the Amended Application contains all of the details and other information, and is accompanied by any affidavit or other document, as required by ss 61–62. The condition at s 190C(2) is met.

### Section 190C(3): no previous overlapping claim group – condition met

[29] The condition at s 190C(3) requires that ‘no person included in the native title claim group for the application ... was a member of the native title claim group for any previous application’. I understand that in assessing this requirement I may have regard to information which does not form part of the application and accompanying documents.<sup>9</sup>

[30] The condition at s 190C(3) only arises where there is a previous application that meets the criteria set out in subsections (a) to (c).<sup>10</sup> These criteria are that any previous application covers at least some of the same area, was accepted for registration under s 190A and is on the Register of Native Title Claims (‘Register’).

[31] Schedule H states that the applicant is not aware of any other native title applications in relation to the area covered by the Amended Application. The Geospatial Assessment and my own searches of the NNTT’s mapping databases have confirmed this.

[32] As there are no previous applications that meet the description of sub-ss (a)–(c), s 190C(3) requires no further consideration. I am satisfied that the Amended Application does not contravene this requirement.

### Section 190C(4): identity of claimed native title holders – condition met

[33] Section 190C(4) provides that the Registrar must be satisfied that either a certificate under s 203BE has been issued by the relevant representative Aboriginal/Torres Strait Islander body,<sup>11</sup> or the requirements in subsection (4AA) are met.<sup>12</sup> Schedule P of the application confirms that the application is not certified. As such and in accordance with s 190C(4)(b), I must proceed to consider the requirements at s 190C(4AA).

#### *Sections 190C(4)(b) and (4AA): identity of claimed native title holders*

##### *Section 190C(4AA)(a): member authorised by native title claim group to be the applicant*

[34] Section 190C(4AA)(a) requires the applicant to be a member of the native title claim group and further requires that the applicant is authorised to make the application, and deal with all matters arising in relation to it, by all the other persons in the native title claim group.<sup>13</sup> It is therefore necessary to identify whether:

- the persons comprising the applicant are members of the native title claim group;
- the applicant is ‘authorised’ in accordance with the requirements in s 251B; and
- that such authorisation was given by ‘all the other persons’ in the native title claim group.

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<sup>9</sup> *Doepel* [16].

<sup>10</sup> *Strickland FC* [9].

<sup>11</sup> Section 190C(4)(a).

<sup>12</sup> Section 190C(4)(b).

<sup>13</sup> The word ‘authorise’ is defined in s 251B: Note to s 190C(4AA).

[35] Having regard to the authorities concerning authorisation of the applicant, I understand that consideration of the provisions at s 190C(4)(b) and (4AA)(a):

- requires the Registrar to be satisfied ‘of the fact of authorisation by all members of the native title claim group’;<sup>14</sup>
- requires the Registrar to be satisfied as to the identity of the claimed native title holders, including the applicant;<sup>15</sup>
- is not ‘to be met by formulaic statements in or in support of applications’;<sup>16</sup>
- does not permit a claim group to choose between the two decision-making processes set out in s 251B, as where there is a traditionally mandated process, that process must be followed to authorise the applicant, and where there is no mandated traditional process, the process must be that which has been agreed and adopted by the native title claim group.<sup>17</sup>

[36] The first limb of s 190C(4AA)(a) requires that ‘the applicant is a member of the native title claim group’. Schedule A of the Amended Application provides that membership of the claim group is those persons who are the descendants by birth or adoption in accordance with traditional laws and customs from 41 named apical ancestors and who identify as and are recognised by other members of the claim group as Jirrbal People. Paragraph 1 of each of the Applicant Affidavits states that the deponent is a member of the claim group as described at Schedule A. I am satisfied that each person comprising the applicant is a member of the native title claim group.

[37] The second limb of s 190C(4AA)(a) requires that ‘the applicant ... is authorised to make the application, and deal with matters arising in relation to it, by all the other persons in the native title claim group’. In my view, the second limb requires consideration of s 251B, which sets out the relevant definition of the word ‘authorise’.

### *Section 251B: authorising the making of applications*

[38] As s 251B contains multiple requirements, it is convenient to identify and address each requirement separately:

- ‘...all the persons in a native title claim group...’
- ‘...authorise ... persons to make a native title determination application ... and to deal with matters arising in relation to it, if’:
  - (a) where there is a traditional decision-making process to be complied with by the native title claim group, that process has been used to authorise the person or persons to make the native title determination application; or

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<sup>14</sup> *Doepel* [78].

<sup>15</sup> *Wiri People* [29].

<sup>16</sup> *Strickland* [57].

<sup>17</sup> *Harrington-Smith* [1230].

- (b) where there is no traditional decision-making process applicable, the persons in the native title claim group authorise the person or persons to make the application in accordance with a process of decision-making agreed to and adopted by the native title group.

[39] As regards ‘all the persons in a native title claim group’, Stone J commented in *Lawson* that ‘the effect of the section is to give the word “all” a more limited meaning’, that it does not require a unanimous vote and that ‘[i]t is sufficient if a decision is made once the members of the claim group are given every reasonable opportunity to participate in the decision-making process’.<sup>18</sup> In considering whether a reasonable opportunity to participate was given, Stone J was prepared to accept, in the absence of contrary evidence, that those who did not participate chose not to be involved in the decision-making process.<sup>19</sup> As such, I understand that I must assess whether all the persons in the native title claim group were provided with an opportunity to attend and participate in the relevant authorisation meeting of 15 March 2025.

[40] Justice Rares held in *Weribone* that a notice for an authorisation meeting ‘must be sufficient to enable the persons to whom it is addressed ... to judge for themselves whether to attend the meeting and vote for or against a proposal’ and that ‘fair notice of the business to be dealt with at the meeting’ must be given.<sup>20</sup>

[41] As regards ‘...authorise... persons to make a native title determination application... and to deal with matters arising in relation to it’, I must assess whether the application was ‘authorised’ under s 251B. In *Ward*, O’Loughlin J listed a number of questions relating to the authorisation process which do not need to be answered in any formal way, but the substance of the questions should be addressed,<sup>21</sup> as follows:

Who convened it and why was it convened? To whom was notice given and why was it given? What was the agenda for the meeting? Who attended the meeting? What was the authority of those who attended? Who chaired the meeting or otherwise controlled the proceedings of the meeting? By what right did that person have control of the meeting? Was there a list of attendees compiled, and if so by whom and when? Was the list verified by a second person? What resolutions were passed or decisions made? Were they unanimous, and if not, what was the voting for and against a particular resolution? Were there any apologies recorded?<sup>22</sup>

[42] The Full Court stated in *Noble*:

Section 251B does not require proof of a system of decision-making beyond proof of the process used to arrive at the particular decision in question. The section accommodates a situation where a native title claim group agrees to follow a particular procedure for a particular decision even if other procedures are normally used for other decisions. Nor does s 251B require a formal agreement to the process adopted for the making of a particular decision. Agreement within the contemplation of s 251B may be proved by the conduct of the parties. There was evidence in this

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<sup>18</sup> *Lawson* [25]. See also *Butchulla* [33].

<sup>19</sup> *Lawson* [27].

<sup>20</sup> *Weribone* [40], [41]; see also *Burragubba* [31].

<sup>21</sup> *Ward* [24]–[25].

<sup>22</sup> *Ward* [24], cited with approval in *Lawson* [26].

case that the claim group conducted itself at the meeting on the basis that it agreed to a vote by the members of the group to determine the question of authorisation. All persons present voted in favour of the motion. Nobody is recorded as leaving the meeting or refusing to vote or in any other way conducting to indicate dissent from the course adopted. There was thus evidence from the conduct of the claim group on which the primary judge could base his conclusion that the requirements of s 251B were satisfied.<sup>23</sup>

[43] In *Fesl*, Logan J considered the meaning and effect of s 251B as dealt with in the above passage from the Full Court in *Noble*, and stated the following principles distilled from the authorities concerning s 251B:

- (a) the effect of the s 251B is to give the word ‘all’ in, materially, the table which appears below s 61(1) a more limited meaning than it might otherwise have;
- (b) in those cases where there is no relevant traditional decision-making process, s 251B does not mandate any one particular decision-making process, only that it be one that is agreed to and adopted by the persons in the native title claim group or compensation group;
- (c) “agreed to and adopted by” imports the giving to all of those whose whereabouts are known and have capacity to authorise a reasonable opportunity to participate in the adoption of a particular process and the making of decisions pursuant to that process;
- (d) unanimous decision-making is not mandated;
- (e) agreement to a particular process may be proved by the conduct of the parties even in the absence of proof of a formal agreement.<sup>24</sup>

**Information provided in support of s 190C(4AA): s 190C(5)**

[44] Section 190C(5) provides that the Registrar cannot be satisfied that an uncertified application meets the requirements of s 190C(4) unless the application<sup>25</sup> contains statements to the effect that the requirements in sub-s (4AA) have been met and briefly sets out the grounds upon which the Registrar should consider that the conditions have been met (but need not include brief grounds relating to conditions under s 251BA where none are imposed).

[45] In *Strickland*, French J (as his Honour then was) stated that s 190C(5):

requires no more than a statement that the requirement of authorisation referred to in s 190C(4)(b) has been met. It is also required briefly to set out the grounds on which the Registrar should consider that it has been met. The insertion of the word “briefly” at the beginning of par 190C(5)(b) suggests that the legislature was not concerned to require any detailed explanation of the process by which authorisation is obtained.<sup>26</sup>

[46] The material that relates to the authorisation of the applicant is contained in Schedule R and the Authorisation Affidavit. I consider that Schedule R contains statements to the effect that the requirements of s 190C(4AA) have been met, as required by s 190C(5)(a). The Authorisation Affidavit includes the following information relating to authorisation:

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<sup>23</sup> *Noble* [18].

<sup>24</sup> *Fesl* [71].

<sup>25</sup> *Doepel* [16], [78].

<sup>26</sup> *Strickland* [57].

- an authorisation meeting was convened on 15 March 2025;<sup>27</sup>
- notice for the authorisation meeting was:
  - sent by post and email on 19 February 2025 to all members of the claim group whose contact details were recorded in the NQLC Traditional Owner database (323 persons by post and 167 by email);
  - published on 22 February 2025 in both print and online editions of the *Cairns Post* and *Townsville Bulletin*; and
  - published on the Facebook and website pages of NQLC on 15 and 24 February 2025 respectively;<sup>28</sup>
- the meeting notice invited persons who are members of the claim group by reference to the apical ancestors that are listed in Scheule A, included a map of the claim area and indicated that the purpose of the meeting was, among other things, to authorise a replacement applicant and to authorise any conditions imposed on the applicant;<sup>29</sup>
- a meeting attendance register was kept which indicates that all persons who voted at the meeting were members of the claim group;<sup>30</sup>
- NQLC staff facilitated and presented at the authorisation meeting, provided legal advice and answered questions at the meeting;<sup>31</sup>
- the relevant resolutions were read out and explained at the meeting and voted upon,<sup>32</sup> with the resolutions passed including the following:
  - that there is no traditional decision-making process that must be followed, and agreeing and adopting a decision-making process involving resolutions being read out and passed by simple majority of votes of persons over 18 years of age by show of hands (resolution 1);<sup>33</sup>
  - that the members of the claim group were provided sufficient notice of the meeting that attendees at the meeting were sufficiently representative of the Jirrbal People to make decisions (resolution 2);<sup>34</sup>
  - authorising the nine persons comprising the replacement applicant (resolution 4);<sup>35</sup> and
  - imposing conditions of the replacement applicant's authority (resolution 5).<sup>36</sup>

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<sup>27</sup> Affidavit of Lucy Toepfer affirmed on 30 May 2025 [13].

<sup>28</sup> Ibid [13].

<sup>29</sup> Ibid, Annexure LRT1.

<sup>30</sup> Ibid [20].

<sup>31</sup> Ibid [15].

<sup>32</sup> Ibid [16]–[17].

<sup>33</sup> Ibid, Annexure LRT2.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid [18], Annexure LRT2.

[47] I am satisfied that this material is sufficient to meet the description of the brief grounds as required by s 190C(5)(b).

[48] I now turn to my consideration of whether the authorisation requirements of ss 190C(4AA) and 251B have been met.

**Has the applicant been authorised: ss 190C(4AA)(a) and 251B?**

[49] The material provided at Schedule R and the Authorisation Affidavit indicates that the notice for the authorisation meeting was sent by post and email to all the Jirrbal People whose contact details were recorded on the database maintained by NQLC. Notice was also published in two regional newspapers and on the NQLC website and Facebook page. The notice invited all Jirrbal People by reference to the apical ancestors listed at Schedule A and provided information about the purpose of the meeting and included a map of the proposed claim area. The authorisation meeting was facilitated by NQLC and an attendance register was kept. Although the material does not set out in detail the process for the registration of attendees at the meeting, the material states that all attendees were members of the claim group. The material indicates that there is no traditional decision-making process that must be followed and sets out the detail of the agreed and adopted decision-making process. Copies of the resolutions that were passed are annexed to the Authorisation Affidavit, including details of the results of the voting which show the relevant resolutions were passed unanimously or with a significant majority. In my view, the substance of the questions in *Ward* have been addressed.<sup>37</sup>

[50] For the above reasons, I have formed the view that the Amended Application satisfies the requirement at ss 190C(4)(b) and (4AA)(a) that the applicant has been authorised to make the application and deal with matters arising in relation to it by all the other persons in the native title claim group.

*Section 190C(4AA)(b): s 251BA conditions*

[51] As noted above, the material also includes details about the conditions imposed under s 251BA on the authority of the replacement applicant. These conditions include that the applicant must act in accordance with the best interests of the claim group, NQLC legal advice and the instructions of the claim group, and also set out decisions that cannot be made without the explicit authority of the claim group at a properly convened meeting. Having regard to the nature of the conditions and that the material demonstrates that the application was brought following NQLC legal advice and following resolutions passed by the claim group, I am satisfied that the Amended Application meets the requirement at s 190C(4AA)(b). There is no material before me to indicate that the conditions have not been satisfied.

*Conclusion on s 190C(4)*

[52] For the above reasons, the application meets the condition at s 190C(4).

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<sup>36</sup> Ibid.

<sup>37</sup> *Ward* [24]; *Lawson* [26].

## **Section 190B: conditions about merits of the claim – conditions met**

### **Section 190B(2): identification of area subject to native title – condition met**

- [53] Section 190B(2) requires the Registrar to be satisfied that the written information and map contained in the application are sufficient to identify, with reasonable certainty, the land and waters in relation to which the native title rights and interests are claimed.
- [54] The Geospatial Assessment confirms that the written description and map contained at Schedule B and Attachments B and C of the Amended Application have not been amended. I am satisfied, for the same reasons set out in paragraphs 85 to 88 of the Previous Registration Decision, that the Amended Application meets the condition at s 190B(2).

### **Section 190B(3): identification of the native title claim group – condition met**

- [55] Section 190B(3) requires the Registrar to be satisfied that either the persons in the native title claim group are named in the application,<sup>38</sup> or that persons in that group are described sufficiently clearly so that it can be ascertained whether any particular person is in that group.<sup>39</sup>
- [56] The description of the Jirrbal People claim group is contained at Schedule A of the Amended Application and has not been amended from the Previous Application. I am satisfied, for the same reasons set out in paragraphs 90 to 99 of the Previous Registration Decision, that the Amended Application meets the condition at s 190B(3).

### **Section 190B(4): identification of claimed native title – condition met**

- [57] Section 190B(4) requires the Registrar to be satisfied that the description contained in the application as required by s 62(2)(d) is sufficient to allow the native title rights and interests claimed to be readily identified.
- [58] The claimed rights and interests are set out at Schedule E of the Amended Application and have not been amended. I am satisfied, for the same reasons set out in paragraphs 101 to 107 of the Previous Registration Decision, that the Amended Application meets the condition at s 190B(4).

### **Section 190B(5): factual basis for claimed native title – condition met**

- [59] Section 190B(5) requires the Registrar to be satisfied that the factual basis for the claimed native title rights and interests is sufficient to support the following assertions:
- (a) that the native title claim group have, and the predecessors of those persons had, an association with the area; and
  - (b) that there exist traditional laws acknowledged by, and traditional customs observed by, the native title claim group that give rise to the claim to native title rights and interests; and

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<sup>38</sup> Section 190B(3)(a).

<sup>39</sup> Section 190B(3)(b).

- (c) that the native title claim group have continued to hold the native title in accordance with those traditional laws and customs.

[60] The relevant principles from the case law in relation to my assessment of the condition at s 190B(5) are set out at paragraphs 110 to 114 of the Previous Registration Decision, and more particularly with respect to each of the assertions at sub-s (a) to (c) at paragraphs 116, 126 to 129 and 138 to 139 respectively. The relevant factual basis material for the purpose of my assessment of the Amended Application is the same as that in the Previous Application. Nevertheless, I have reviewed the factual basis material afresh for the purpose of my assessment of the Amended Application.

[61] In relation to the assertion at **s 190B(5)(a)**, I consider that there is significant material demonstrating the association that the apical ancestors and predecessors of the claim group, as well as current members of the claim group, have with the whole of the claim area. I am satisfied, for the same reasons set out in paragraphs 117 to 125 of the Previous Registration Decision, that the Amended Application meets the condition at s 190B(5)(a).<sup>40</sup>

[62] In relation to the assertion at **s 190B(5)(b)**, there is a significant amount of material, particularly set out in the expert anthropological reports of Drs Benjamin Smith and John Burton and Ms Ophelia Rubinich, which demonstrate that there exist traditional laws and customs acknowledged and observed by the claim group giving rise to the claimed rights and interests. The expert material is supported by the affidavits and witness statements of current members of the claim group contained in the factual basis material. In my view, this material demonstrates that the traditional laws and customs of the Jirrbal People have their origins in the normative rules of a society that existed in the area prior to the assertion of sovereignty. For the reasons set out in the Previous Registration Decision at paragraphs 130 to 137, the Amended Application meets the condition at s 190B(5)(b).

[63] In relation to the assertion at **s 190B(5)(c)**, I consider that there is sufficient material from both the expert reports and material from current members of the claim group that demonstrates how the Jirrbal People have continued to hold the native title in accordance with their traditional laws and customs, derived from the laws and customs that existed in the pre-sovereignty society. For the same reasons as set out at paragraphs 140 to 144 of the Previous Registration Decision, I am satisfied that the Amended Application meets the condition at s 190B(5)(c).

## Section 190B(6): prima facie case – condition met

[64] Section 190B(6) requires the Registrar to consider that, prima facie, at least some of the native title rights and interests claimed in the application can be established.<sup>41</sup> I refer to my summary of the relevant case law pertaining to this condition at paragraphs 145 to 147 of the Previous Registration Decision.

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<sup>40</sup> I note that in the Previous Registration Decision, the reference in paragraph 120 to the material contained at paragraphs 90 to 93 of the original registration decision of the Jirrbal People #4 claim dated 9 February 2016 refers to the association of the apical ancestors and predecessors of the claim group, and not the current members of the claim group.

<sup>41</sup> Section 186(1)(g) of the Act requires the Register of Native Title Claims to include a description of the native title rights and interests that, in applying s 190B(6), could be established on a prima facie basis.

- [65] The claimed rights and interests are set out at Schedule E of the Amended Application and have not been amended. The applicant relies on the same factual basis material in support of this condition as in the Previous Registration Decision.
- [66] Schedule E includes claimed exclusive rights and interests. The relevant case law in relation to my assessment of exclusive rights for the purpose of s 190B(6) is set out at paragraphs 151 to 153 of the Previous Registration Decision.
- [67] I have reviewed Schedule E and the relevant material and am satisfied, for the same reasons as set out at paragraphs 154 to 160 of the Previous Registration Decision, that the factual basis material is sufficient to establish each of the exclusive and non-exclusive rights and interests on a prima facie basis. The Amended Application meets the condition at s 190B(6), and each of the claimed rights and interests should remain on the Register in accordance with s 186(1)(g).

### Section 190B(7): traditional physical connection – condition met

- [68] Section 190B(7) requires the Registrar to be satisfied that at least one member of the native title claim group currently has or previously had a traditional physical connection with any part of the land or waters covered by the application, or previously had and would reasonably be expected to currently have a traditional physical connection with any part of the land or waters, but for certain things done.
- [69] As noted above, the applicant seeks to rely on the same factual basis material as in the Previous Registration Decision. Having reviewed the relevant material, I am satisfied, for the same reasons as set out in paragraphs 162 to 166 of the Previous Registration Decision, that the Amended Application satisfies the condition at s 190B(7).

### Section 190B(8): no failure to comply with s 61A – condition met

- [70] Section 190B(8) provides that the application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that the application should not have been made because it does not comply with s 61A.
- [71] I have reviewed the relevant material in the Amended Application and I refer to my reasons in relation to this condition set out at paragraphs 168 to 172 of the Previous Registration Decision. I note that the updated Applicant Affidavits indicate at paragraph 5 that the Amended Application is not covered by an approved determination of native title, and that this is confirmed in the updated Geospatial Assessment and my own searches of the NNTT's geospatial database. Otherwise, I note that each of the relevant Schedules of the Amended Application referred to in my assessment of this condition in the Previous Registration Decision have not been amended, and noting the updated Applicant Affidavits and otherwise for the same reasons as set out the Previous Registration Decision, I am satisfied that the Amended Application meets the condition at s 190B(8).

## Section 190B(9): no extinguishment etc. of claimed native title – condition met

- [72] Section 190B(9) provides that the application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that claimed native title rights and interests include claims to ownership of minerals, petroleum or gas wholly owned by the Crown, exclusive rights to waters in an offshore place or extinguished native title rights and interests (except where such extinguishment can be disregarded under certain provisions of the Act).<sup>42</sup>
- [73] Schedules B, Q and P of the Amended Application have not been amended. For the same reasons as set out in paragraphs 174 to 176 of the Previous Registration Decision, I am satisfied that the Amended Application meets the condition at s 190B(9).

*End of reasons*

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<sup>42</sup> See ss 47(2), 47A(2), 47B(2) or 47C(8) of the Act.

## Attachment A

### Information to be included on the Register of Native Title Claims

Application name	Jirrbal People #4
NNTT No.	QC2015/014
Federal Court of Australia No.	QUD983/2015

#### Section 186(1): Mandatory information

In accordance with ss 186, 190A(1) of the *Native Title Act 1993* (Cth), the following is to be entered on the Register of Native Title Claims for the above application.

#### Application filed/lodged with:

Federal Court of Australia

#### Date application filed/lodged:

22 October 2015

#### Date application entered on Register:

9 February 2016

#### Applicant:

Bradley Go-Sam, Sarah Cronin, Tonya Grant, Phyllis Grant, Tasha House, Jeanette Miller, Kurt Noble, Joshua Weare, Vivian Woods

#### Applicant's address for service:

Lucy Toepfer

North Queensland Land Council Native Title Representative Body Aboriginal Corporation  
61 Anderson Street

Manunda QLD 4870

Phone: 07 4042 7000

#### Conditions on Applicant's authority

1. The Applicant must:
  - (a) act on behalf of, and in the best interests of, all of the members of the Jirrbal #4 claim group, not just themselves or their own families;
  - (b) act on the reasonable legal advice of North Queensland Land Council (**NQLC**) solicitors;
  - (c) act in accordance with NQLCs policies and procedures;
  - (d) act on the instructions of the Jirrbal #4 claim group given at properly notified and convened Jirrbal #4 claim group meetings; and

- (e) make decisions by majority where a consensus cannot be achieved;
2. Unless explicitly authorised to do so by the Jirrbal #4 claim group at a properly notified and convened Jirrbal #4 claim group meeting, the Applicant has **no authority** to:
- (a) discontinue or withdraw the Claim;
  - (b) amend the Claim to change the composition of the native title claim group (e.g. by adding or removing an apical ancestor) or the native title rights and interests claimed or to reduce or alter the geographical boundaries of the Claim area;
  - (c) execute or enter into an Indigenous Land Use Agreement or any other agreement that has the effect of consenting to future acts, dealing with compensation or surrendering, extinguishing or impairing native title or otherwise affecting native title or confirming the prior extinguishment or impairment of native title;
  - (d) change the solicitor or legal representation for the Applicant in the Claim;
  - (e) approve any proposed consent determination of native title or settlement of the Claim (whether in whole, or in part), or nominate a corporation to be the prescribed body corporate to hold any determined native title rights and interests in trust on behalf of the Jirrbal People, or to be the agent prescribed body corporate for the Jirrbal People;
  - (f) nominate any corporation or legal entity to hold benefits arising from native title agreements on behalf of the claim group.
3. The Applicant is authorised to provide instructions to NQLC in relation to:
- (a) any responses or other actions concerning Future Act Notices under subdivisions A to N of the NTA part 2 division 3;
  - (b) any response or other action concerning any notice under section 29 of the NTA;
  - (c) responding to notices issued by statutory authorities or private entities wishing to undertake activities which may affect native title rights and interests claimed in the Jirrbal #4 Claim;
  - (d) entering into negotiation documents for cost recovery and process for larger future act negotiations;
  - (e) the negotiation of ILUAs and other agreements dealing specifically with future acts in the Jirrbal #4 Claim area;
  - (f) the negotiation of cultural heritage management agreements and plans in the Jirrbal #4 Claim area; and
  - (g) implementation of ILUAs and other agreements dealing specifically with future acts and cultural heritage in the Jirrbal #4 Claim area; and
  - (h) any other matter that NQLC and the Applicant agree to from time to time, subject to the same conditions placed on the Applicant's authority under the other provisions of this resolution mentioned above.

4. If a person who is a member of the replacement Applicant dies, is incapacitated, exceeds their authority, is unwilling or unable to act, resigns, or otherwise ceases to be a member of the Applicant, then in every case, the remaining members of the Applicant shall be the Applicant and shall remain duly authorised with the power of the Applicant under the NTA and as limited by the conditions placed on its authority by the claim group at an authorisation meeting
5. The decision as to whether an Applicant member is unwilling or unable to continue to act as an Applicant member is a decision of the other members of the Applicant, acting by majority.
6. When a person ceases to be a member of the Applicant under [4] or [5], the remaining members of the Applicant are authorised to make any application under s.66B of the NTA to reflect the change to the membership of the Applicant.

**Area covered by application:**

As per the Schedule

**Persons claiming to hold native title:**

As per the Schedule

**Registered native title rights and interests:**

As per the Schedule

Michael Raine

Delegate of the Native Title Registrar pursuant to ss 190–190D of the Act under an instrument of delegation dated 5 February 2024 and made pursuant to s 99 of the Act.

25 August 2025